REMARKS

Status of the Claims

Claims 1-3, 5-8 and 10 are pending, claims 1 and 6 being independent claims.

Claims 4 and 9 were previously canceled.

Claims 1-3, 5-8 and 10 have been rejected under 35 U.S.C. 103(a) for obviousness over Winberg (GB 2369003) in view of Helmersson (WO 02/067606) and further in view of Wallentin (US 6,347,091).

No claims are amended herein.

Telephonic Interview

Applicant notes the telephonic interview conducted on May 19, 2008 with Examiner H.C. Ho. Applicant thanks the Examiner for his time and for discussing the claimed invention, the current rejection including the rejection's response to arguments, and the references utilized in the rejection. In particular, the Applicant appreciated discussion of noun clauses of claim 1's recited in the claim language "determining whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data" and "deciding to make the transfer, dependent upon … said determination". As presented more fully in the Amendment & Response filed February 1, 2008, Applicant maintains that the cited references fail teach or suggest this feature of the claimed invention and submits the claimed invention is patentable over the cited references. As requested by Examiner Ho, Applicant has again set forth below reasons for patentability over the cited references.

Claim 1

Claim 1 requires, in part, "determining whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data" and "decoding to make the transfer dependent upon ... said determination whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data".

This noted claim language recites a noun clause. A noun clause is a clause that can be used in the same way as a noun, adjective, verb, or pronoun. A noun clause can be a subject, predicate nominative, direct object, appositive, indirect object, or object of the preposition. Words that introduce noun clauses include that, whether, who, why, whom, what, how, when, whoever, where, and whomever.

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Thus, as claim 1 recites "determining the amount ..." and "determining a value", claim 1 likewise recites "determining whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data". The claim language "whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data" is a noun clause which states what it is that is determined.

As the specification describes, "the transfer is made also dependent upon whether or not the shared channels operate such that an acknowledgement of receipt is sent on receiving data". Publication of the Application, US 2004/0082336 [0013]. The detailed description first describes decision block (12) operating by considering weighted factors that include buffer occupany (14), data rate (16) and RF power requirement (18). Publication [0019-0020]. The specification later teaches further input (not shown) into the decision block (12) being a "signal indicating whether or not acknowledgements are required to be received back before data is assumed to have been correctly received" and describes checking of whether "the FACH/RACH channel state is in Acknowledge mode (i.e., acknowledgements being required)". Publication [0026].

Claim 1, as originally and currently presented, recites this feature of the invention. That is; the claimed method determines whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data. In other words, the method determines if the acknowledgement mode is on or off. The claimed method uses that determination, along with other factors to decide to make the transfer. ("deciding to make the transfer, dependent upon said value and upon said amount or rate, and upon said determination...")

This feature is nowhere taught nor suggested by the Helmerson, Winberg or Wallentin art cited by the Office. Although the cited art Wallentin apparently teaches an acknowledgement of receipt is sent on receiving data, Wallentin fails to teach or suggest deciding to make the transfer between channels dependent on whether there is an acknowledgements mode that is on or off. Wallentin teaches deciding whether to switch between dedicated and shared channels based on a threshold of number of sent packets awaiting receipt of acknowledgement from the receiver. Wallentin 7:58-62. In sharp contrast, the claimed invention relates to deciding whether to switch based on determining/(said determination) whether or not the shared channels are to operate such that an acknowledgment of receipt is sent on receiving data (emphasis added); in other words, whether or not acknowledgements should be sent.

Further, Winberg teaches deciding to make the transfer dependent upon other factors than those recited by the claimed invention. Specifically, Winberg teaches deciding whether to switch between dedicated and shared channels based on buffer level threshold values, data throughput level threshold values, and time values. Winberg 4:23-24 and 5:24-26. Winberg does not suggest looking at any other parameters for this determination of whether to switch between dedicated and shared channels.

Accordingly, since the cited references fail to teach or suggest this claim feature, the Office has failed to make out a 35 USC 103 rejection to the requisite standard and this rejection should be withdrawn.

Claims 2 to 3, 5

Claims 2, 3 and 5 depend from and include all the limitations of base claim 1. Accordingly, dependent claims 2, 3 and 5 are patentable not least on the basis that they each depend on an allowable independent claim 1.

Claim 6

Claim 6 recites:

"the decision means being operative to control transfer of the call connection by the channel allocator between the dedicated channels and the shared channels dependent upon:

...a third input signal to the decision means indicating whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data."

Neither Helmerson, Winberg or Wallentin teaches or suggests such an input signal to the decision means indicating "whether or not the shared channels are to operate such that an acknowledgement of receipt is sent on receiving data", where the decision means operate to control transfer of a call connection between dedicated and shared channels dependent upon that input signal recited by the noun clause. None of these references suggest decision means operate to control transfer of a call connection between dedicated and shared channels dependent upon, amongst other things, that third input signal.

It follows that since the cited references fail to teach or suggest this claim feature, the 35 U.S.C.103 rejection should be withdrawn.

<u>Claims 7, 8 and 10</u>

Claims 7, 8 and 10 depend from and include all the limitations of base claim 6. Accordingly, dependent claims 7, 8 and 10 are patentable not least on the basis that they each depend on an allowable independent claim 6.
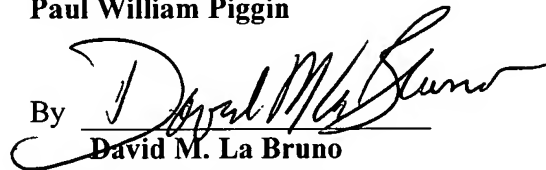
<u>Conclusion</u>

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, David M. La Bruno, at 973 386 3324.

Respectfully submitted,

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